



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R6-ES-2021-0056; FF06E21000 245 FXES11140600000]

### Endangered and Threatened Wildlife and Plants; Proposed Amendment to Programmatic Safe Harbor Agreement and Candidate Conservation Agreement with Assurances for Kansas Aquatic Species

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are announcing the availability of documents associated with an application to amend an enhancement of survival permit (permit) under the Endangered Species Act. The Kansas Department of Wildlife and Parks has applied to amend the existing *Programmatic Safe Harbor Agreement and Candidate Conservation Agreement with Assurances for 15 Aquatic Species in Kansas* (SHA/CCAA) by adding 6 additional covered species: Lake sturgeon (*Acipenser fulvescens*), sicklefin chub (*Macrhybopsis meeki*), sturgeon chub (*Macrhybopsis gelida*), snuffbox mussel (*Epioblasma triquetra*), spectaclecase (*Cumberlandia monodonta*), and Ouachita kidneyshell (*Ptychobranhus occidentalis*).

The documents available for review and comment are the applicant's proposed amended programmatic SHA/CCAA, which is part of the permit amendment application, and our draft environmental action statement and low-effect screening form, which support a categorical exclusion for the amendment under the National Environmental Policy Act.

We invite comments from the public and Federal, Tribal, State, and local governments.

**DATES:** We will accept comments received or postmarked on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

Comments submitted online at <https://www.regulations.gov> (see **ADDRESSES**) must be

received by 11:59 p.m. eastern time on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES: *Obtaining Documents:*** The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R6-ES-2021-0056 at <https://www.regulations.gov>.

***Submitting Comments:*** To submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the Kansas Aquatic SHA/CCAA amendment.

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket Number FWS-R6-ES-2021-0056.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS-R6-ES-2021-0056; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Gibran Suleiman, by phone at 785–539–3474, extension 114, or by email at [gibran\\_suleiman@fws.gov](mailto:gibran_suleiman@fws.gov). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services.

Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from the Kansas Department of Wildlife and Parks (KDWP, applicant) to amend their existing 50-year enhancement of survival permit (permit) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The amendment requests the addition of 6 species to the 15 species already covered by the applicant’s approved programmatic safe harbor agreement (SHA) and candidate conservation agreement with assurances (CCAA) on non-Federal lands in the

State of Kansas. The documents available for review and comment are the applicant's proposed amended programmatic SHA/CCAA, which is part of the permit amendment application, and our draft environmental action statement and low-effect screening form for the amendment request, which support a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We invite comments on documents from the public and Federal, Tribal, State, and local governments.

## **Background**

Via a *Federal Register* notice published on September 15, 2021 (86 FR 51366), we announced the availability of KDWP's original application for an enhancement of survival permit with a 50-year term, which included a proposed programmatic SHA/CCAA for 14 aquatic species in Kansas, and our draft environmental action statement and low-effect screening form, which supported a categorical exclusion under NEPA. The comment period was open until October 15, 2021. After considering the application, associated materials, and the 15 public comments received, we issued the requested permit. On October 12, 2022, we announced via a *Federal Register* notice (87 FR 62114) the availability of KDWP's subsequent application to amend their enhancement of survival permit to include one additional covered species, the western fanshell (*Cyprogenia aberti*). The comment period for the amendment was open until November 14, 2022, and we issued the requested amended permit after considering the application, associated materials, and the three public comments received. To provide background information, we have made the original 2021 proposed programmatic SHA and CCAA, and the 2022 amendment, along with related documents and comments, available for review in <https://www.regulations.gov> under Docket No. FWS-R6-ES-2021-0056. However, we will not be taking further comments on those documents.

## **Safe Harbor Agreements and Candidate Conservation Agreements with Assurances**

An SHA is an agreement between the Service, partners, and landowners for

voluntary management of non-Federal lands to contribute towards recovery of ESA-listed species in a manner that is consistent with the Service's policy on SHAs (64 FR 32717, June 17, 1999) and applicable regulations. A CCAA is an agreement between the Service, partners, and landowners for voluntary management of non-Federal lands to remove or reduce key threats to species that may become listed under the ESA, in a manner that is consistent with the Service's policy on CCAAs (81 FR 95164, December 27, 2016) and applicable regulations. In return for implementing conservation measures in a SHA/CCAA, the Service gives participants assurances that the Service will not impose land, water, or resource use restrictions or conservation requirements on ESA-listed species, or those that may become listed, beyond those agreed to in the SHA/CCAA.

### **Applicant's Proposed Amendment to Programmatic Safe Harbor**

#### **Agreement/Candidate Conservation Agreement with Assurances**

KDWP's purpose in amending its programmatic SHA/CCAA is to add the lake sturgeon, sicklefin chub, sturgeon chub, snuffbox mussel, spectaclecase, and Ouachita kidneyshell, to facilitate the reintroduction and implementation of conservation measures for the species on non-Federal lands in Kansas. The documents available for review and comment are the proposed amended programmatic SHA/CCAA, which is part of the permit application, and our draft environmental action statement and low-effect screening form, which support a categorical exclusion under NEPA.

To enroll in the programmatic SHA/CCAA, a non-Federal landowner would enter into a landowner agreement with KDWP to enroll all or a portion of their property under the SHA and/or CCAA. Upon signature by both parties, KDWP would issue a certificate of inclusion to the non-Federal landowner, extending assurances and take authorization to the participating landowner for the appropriate covered species. The requested permit duration is for 50 years, starting on December 15, 2021 (the date of original permit

issuance). Proposed conservation measures include the introduction, reintroduction, augmentation (release of individuals to supplement an existing population), or translocation of the covered species, and protection or enhancement of aquatic, wetland, riparian, or adjacent upland habitats for the covered species. Conservation measures would be site specific, and would be developed by the participating landowner and KDWP. Incidental take of covered species may occur as a result of the implementation of conservation measures or ongoing land management activities on the enrolled lands.

### **Covered Species**

The addition of the 6 species to the 15 species in the existing agreement would bring the total number of species covered under the CCAA/SHA to 21. All 21 species are in the table below.

<b><i>Safe Harbor Agreement Covered Species</i></b>			
<b>Species Name</b>	<b>Scientific Name</b>	<b>Federal Listing Status</b>	<b><i>Federal Register</i> Listing Citation</b>
<i>Fishes</i>			
Arkansas River shiner	<i>Notropis girardi</i>	Threatened	63 FR 64772; November 13, 1998
Neosho madtom	<i>Noturus placidus</i>	Threatened	55 FR 21148; May 22, 1990
Neosho mucket	<i>Lampsilis rafinesqueana</i>	Endangered	78 FR 57076; September 17, 2013
Peppered chub	<i>Macrhybopsis tetranema</i>	Endangered	87 FR 11188; February 28, 2022
Topeka shiner	<i>Notropis topeka</i>	Endangered	63 FR 69008; December 15, 1998
<i>Mussels</i>			
Rabbitsfoot	<i>Quadrula cylindrica cylindrica</i>	Threatened	78 FR 57076; September 17, 2013
Western fanshell	<i>Cyprogenia aberti</i>	Threatened	88 FR 41724; June 27, 2023
Snuffbox mussel	<i>Epioblasma triquetra</i>	Endangered	77 FR 8631; February 14,

			2012
Spectaclecase	<i>Cumberlandia monodonta</i>	Endangered	77 FR 14914; March 13, 2012
<b><i>Candidate Conservation Agreement with Assurances Covered Species</i></b>			
<b>Species Name</b>	<b>Scientific Name</b>	<b>Federal Listing Status</b>	<b><i>Federal Register Listing Citation</i></b>
<i>Reptiles</i>			
Alligator snapping turtle	<i>Macrochelys temminckii</i>	Proposed Threatened	86 FR 62434; November 9, 2021
<i>Fishes</i>			
Hornyhead chub	<i>Nocomis biguttatus</i>	Unlisted	N/A
Plains minnow	<i>Hybognathus placitus</i>	Unlisted	N/A
Silver chub	<i>Macrhybopsis storeriana</i>	Unlisted	N/A
Lake sturgeon	<i>Acipenser fulvescens</i>	Unlisted	N/A
Sicklefin chub	<i>Macrhybopsis meeki</i>	Unlisted	N/A
Sturgeon chub	<i>Macrhybopsis gelida</i>	Unlisted	N/A
<i>Mussels</i>			
Butterfly mussel	<i>Ellipsaria lineolata</i>	Unlisted	N/A
Cylindrical papershell	<i>Anodontoides ferussacianus</i>	Unlisted	N/A
Flat floater	<i>Anodonta suborbiculata</i>	Unlisted	N/A
Fluted shell	<i>Lasmigona costata</i>	Unlisted	N/A
Ouachita kidneyshell	<i>Ptychobranhus occidentalis</i>	Unlisted	N/A

## Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals

identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

**Marjorie Nelson,**

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